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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,499	10/09/2003	Chester C. Bullock	P-1867	9847

7590 02/24/2004

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EXAMINER

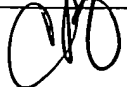
NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/682,499	Applicant(s) BULLOCK ET AL. 	
	Examiner Son T. Nguyen	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.


- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


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Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/9/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claim 1** is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6470625 (herein 625) in view of US 4419843 (herein 843).

For claim 1, 625 discloses a vertical planting system comprising a plurality of individual substantially identical growing containers 1,1' each having a bottom wall, outwardly tapered side walls defining a hollow interior and an open top surface; said open top surface of each said container, being defined by the upper margins of said side walls, defining a plurality of discrete radially extending planting areas (see fig. 1 of arcuate shape of containers) spaced arcuately apart about a common central upright axis of each of said containers; said top surface of each of said containers having a substantially greater surface area than that of said bottom wall, each said bottom wall of each said containers having a central support pole receiving aperture (not numbered but can be seen in fig. 2) formed therethrough coaxial with said central upright axis and fluid drainage holes (not numbered but can be seen in fig. 3 where arrows of water flow are located) formed therethrough; said containers being vertically stackable and self-aligning one on top of the next to form a growing column supported by an elongated upright support pole 4,4',9 driven into the ground (fig. 2) and inserted through each said

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aperture of each of said containers in coaxially alignment with the upright axis; a fluid collector 19 having a bottom wall and an open top surface structured to supportively receive and be self-aligned with a bottom one of said containers in the growing column, said bottom wall of said fluid collector having a central support pole receiving aperture (not numbered but can be seen in fig. 2) formed therethrough and slidably engaged over a lower portion of the support pole. However, 625 is silent about a water diffuser box having a bottom wall and upwardly extending side walls and an open top surface, said diffuser box vertically stackable and self aligning atop a top of one of said containers in the growing column, said bottom wall of said diffuser a nutrient and having a central support pole receiving aperture formed therethrough slidably engaged over an upper end of the support pole, said bottom of said diffuser box also including fluid drainage holes.

843 teaches a similar vertical planting system 10 comprising a water diffuser box 24 having a bottom wall and upwardly extending side walls and an open top surface, said diffuser box vertically stackable and self aligning atop a top of one of said containers 16A or 16B in the growing column, said bottom wall of said diffuser a nutrient and having a central support pole receiving aperture 30 formed therethrough slidably engaged over an upper end of the support pole, said bottom of said diffuser box also including fluid drainage holes 28. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a water diffuser box as taught by 843 in the vertical system of 625 in order to contain nutrient or water coming

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from a fluid source and slowly dissipate the nutrient or water through the drainage holes so that the plants will not be over soaked with nutrient or water.

3. **Claims 2 & 3** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6470625 (herein 625) in view of US 4419843 (herein 843), WO 98/56233 (herein 233) and US 4216617 (herein 617).

For claim 2, 625 discloses a vertical planting system comprising a plurality of individual substantially identical molded growing containers 1,1' each having a bottom wall, outwardly tapered side walls defining a hollow interior adapted to hold growing media therein, and an open top surface; said open top surface of each said container, being defined by the upper margins of said side walls; substantially greater surface area than that of said bottom wall, said bottom wall having a central support pole receiving aperture (not numbered but can be seen in fig. 2) formed therethrough coaxial with said central upright axis and fluid drainage holes (not numbered but can be seen in fig. 3 where arrows of water flow are located) also formed therethrough; said containers being vertically stackable and self-aligning one on top of the next to form a vertical growing column supported by an elongated upright support pole 4',4,9 inserted through each said aperture of each bottom wall of said containers; a molded fluid funnel 19 having a bottom wall and an open top surface structured to supportively receive and be self-aligned beneath a bottom one of said containers in the growing column, said bottom wall of said fluid container having a central support pole receiving aperture (fig. 2) formed therethrough which is slidably engaged over a lower portion of the support pole; a fluid nutrient and water discharge 13,13',10,12 positioned on top of the system

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whereby fluid nutrient and water flow downwardly through a central portion of growing media in each downwardly successive container. However, 625 is silent about each upwardly successive container rotationally offset about the upright axis in self-aligning fashion whereby each of said planting areas is unobstructed for plant growth by said planting areas of the container immediately thereabove; a nutrient and water diffuser box molded having a bottom wall, upwardly extending side walls and an open top surface, said diffuser box vertically stackable and self aligning atop a top of one of said containers in the growing column, said bottom wall of said diffuser having a central support pole receiving aperture formed therethrough and slidably engaged over an upper end of the support pole, said bottom of said diffuser box also including fluid drainage holes formed therethrough; a fluid nutrient and water discharge positioned on top of the diffuser box whereby fluid nutrient and water flowing into the box will drain downwardly through a central portion of growing media in each downwardly successive container; and a remainder of fluid nutrient and water flowing from said fluid funnel into the ground.

233 teaches a similar vertical planting system wherein each upwardly successive container 10,10A rotationally offset about the upright axis in self-aligning fashion whereby each of said planting areas is unobstructed for plant growth by said planting areas of the container immediately thereabove (see figs. 7,12,15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have each upwardly successive container of 625 rotationally offset about the upright

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axis in self-aligning fashion as taught by 233 in order to provide planting areas that are unobstructed by coverage of adjacent containers.

843 teaches a similar vertical planting system 10 comprising a nutrient and water diffuser box 24 molded having a bottom wall, upwardly extending side walls and an open top surface, said diffuser box vertically stackable and self aligning atop a top of one of said containers in the growing column, said bottom wall of said diffuser having a central support pole receiving aperture 30 formed therethrough and slidably engaged over an upper end of the support pole, said bottom of said diffuser box also including fluid drainage holes 28 formed therethrough. In addition, 843 teaches a fluid nutrient and water discharge 18 positioned on top of the diffuser box 24 whereby fluid nutrient and water flowing into the box will drain downwardly through a central portion of growing media in each downwardly successive container. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a water diffuser box and a fluid nutrient and water discharge as taught by 843 in the vertical system of 625 in order to provide water and nutrient and to contain nutrient or water coming from a fluid source and slowly dissipate the nutrient or water through the drainage holes so that the plants will not be over soaked with nutrient or water.

617 teaches a similar vertical planting system as 625 in which a remainder of fluid nutrient and water flowing from said fluid funnel into the ground through manifold 18 and empties in to container 19 (see fig. 7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the remainder of fluid nutrient and water flowing from said fluid funnel into the ground through manifold

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18 and empties in to container 19 as taught by 617 in the vertical planting system of 625 in order to allow the fluid to be collected and recycled.

For claim 3, 625 discloses a vertical planting system comprising: a plurality of individual substantially identical molded as a unit growing containers each having a bottom wall, conical-like upwardly expanding side walls defining a hollow interior holding growing media and an open top surface; said open top surface of each said container, being defined by the upper margins of said side walls, defining four discrete radially extending substantially round upwardly facing planting areas odhogonally spaced apart one to another about a central upright axis of each of said containers and extending downwardly into said hollow interior; said top surface of each of said container having a substantially greater area than that of said bottom wall, said bottom wall having a central support pole receiving aperture formed therethrough and fluid drainage holes also formed therethrough; an elongated upright support pole adapted in length to be driven into the ground for support and having an exposed upright portion thereof; said containers being vertically stackable one on top of the next in self-aligning fashion to form a vertical growing column supported by said support pole after being driven into the ground and inserted through each said aperture of each of said containers; a fluid funnel molded as a unit having a bottom wall, outwardly tapered side walls and an open top surface structured to supportively receive and be self-aligned directly beneath a bottom one of said containers in the growing column, said bottom wall of said fluid funnel having a central support pole receiving aperture formed therethrough which is slidably engaged over a lower portion of the support pole; a fluid nutrient and water

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discharge member positioned directly above said system whereby fluid nutrient and water flowing from said discharge member into said system will drain downwardly through a central portion of growing media in each downwardly successive container. However, 625 is silent about each upwardly successive container rotationally offset about the view projected area whereby each of said axis in top plan planting areas is unobstructed for plant growth by next above said planting areas; a nutrient and water diffuser box molded as a unit having a bottom wall, upwardly extending side walls and an open top surface, said diffuser box vertically stackable and self aligning atop a top of one of said containers in the growing column, said bottom wall of said diffuser having a central support pole receiving aperture formed therethrough and slidably engaged over the support pole, said bottom of said diffuser box also including fluid drainage holes formed therethrough; the fluid nutrient and water discharge member positioned directly above said diffuser box whereby fluid nutrient and water flowing from said discharge member into said diffuser box will drain downwardly through a central portion of growing media in each downwardly successive container; and a remainder of fluid nutrient and water flowing from said fluid funnel into the ground.

233 teaches a similar vertical planting system wherein each upwardly successive container 10,10A rotationally offset about the view projected area whereby each of said axis in top plan planting areas is unobstructed for plant growth by next above said planting areas (see figs. 7,12,15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have each upwardly successive container of 625 rotationally offset about the upright axis in self-aligning fashion as

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taught by 233 in order to provide planting areas that are unobstructed by coverage of adjacent containers.

843 teaches a similar vertical planting system 10 comprising a nutrient and water diffuser box 24 molded as a unit having a bottom wall, upwardly extending side walls and an open top surface, said diffuser box vertically stackable and self aligning atop a top of one of said containers in the growing column, said bottom wall of said diffuser having a central support pole receiving aperture 30 formed therethrough and slidably engaged over the support pole, said bottom of said diffuser box also including fluid drainage holes 28 formed therethrough. In addition, 843 teaches a fluid nutrient and water discharge member 18 positioned directly above said diffuser box whereby fluid nutrient and water flowing from said discharge member into said diffuser box will drain downwardly through a central portion of growing media in each downwardly successive container. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a water diffuser box and a fluid nutrient and water discharge as taught by 843 in the vertical system of 625 in order to provide water and nutrient and to contain nutrient or water coming from a fluid source and slowly dissipate the nutrient or water through the drainage holes so that the plants will not be over soaked with nutrient or water.

617 teaches a similar vertical planting system as 625 in which a remainder of fluid nutrient and water flowing from said fluid funnel into the ground through manifold 18 and empties in to container 19 (see fig. 7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the remainder

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of fluid nutrient and water flowing from said fluid funnel into the ground through manifold 18 and empties in to container 19 as taught by 617 in the vertical planting system of 625 in order to allow the fluid to be collected and recycled.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.



Son T. Nguyen
Primary Examiner, GAU 3643
February 22, 2004